



Appl. No. 10/644,111

CERTIFICATE OF MAILING

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 with sufficient postage as First Class Mail.

Date: May 23, 2006

Signature: _____

Signed By: Christopher J. Scott

PATENT

Our Case No. 03093

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Keith A. Sauerland)

Serial No.: 10/644,111)

Art Unit: 3762)

Filed: August 20, 2003)

Examiner: Michael W. Kahelin)

For: Cordless Stethoscope)
for Hazardous Material Environments)

AFFIDAVIT UNDER 37 CFR § 1.131

Section 1.131 of Title 37 of the Code of Federal Regulations (37 C.F.R. § 1.131) enables a patent applicant to antedate prior art reference(s) by submitting certain declarations (under 37 C.F.R. § 1.131(a)) as supported by evidence (under 37 C.F.R. § 1.131(b)) attesting to an earlier date of reduction to practice for a claimed invention as compared to the effective date of the prior art reference(s). The Code provides, in relevant portion, as follows:

When any claim of an application is rejected, the inventor of the subject matter of the rejected claim may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. (See generally 37 C.F.R. § 1.131(a)).

The U.S. Patent Examiner has rejected independent Claim Nos. 21 and 26 as being unpatentable over Brummel et al. (U.S. Patent Application Publication No. 2005/0074130) in view of Boesen (U.S. Patent No. 6,852,084) and further has rejected Claim No. 31 as being unpatentable over Brummel et al. in view of Kuo (U.S. Patent No. 6,836,680). The U.S. Patent Examiner states that Brummel properly claims the benefit of provisional U.S. Patent Application No. 60/477,276, filed in the United States Patent and Trademark Office on June 10, 2003.

I, the undersigned, developed in March 2003 a working prototype of the invention as claimed in rejected Claim Nos. 21 – 24 and 26 – 34 (i.e. the wireless stethoscope) as supported by Exhibit A (1p) dated March 26, 2003 and attached hereto. Exhibit A is the earliest dated document evidencing development of the invention. In April of 2003, I contacted the attorneys of record (Meroni & Meroni, P.C.) in the subject application to discuss the patenting process as supported by Exhibit B and attached hereto. Exhibit B is an entry from a logbook/journal maintained during the initial phases of this project. In late April of 2003, Meroni & Meroni, P.C. sent to the undersigned an information packet describing in detail the patenting process and the costs involved for seeking patent protection on our wireless stethoscope as further supported by Exhibit B. In early May 2006, I met with Mr. Charles F. Meroni, Jr. to discuss the project as further supported by Exhibit B.

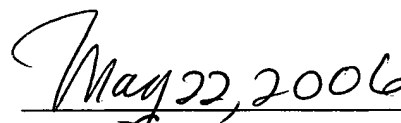
As a result of the meeting with Mr. Charles F. Meroni, Jr. on May 6, 2003, I decided that the best course of action would be to conduct a patent search and investigation in order to obtain a more formal opinion on patentability of the wireless stethoscope in view of the state of art. In this regard, I paid to Meroni & Meroni, P.C. an initial payment of \$425.00 to begin the search as supported by Exhibits C, D, and E.

Exhibit C is a copy of a credit card payment dated May 6, 2003; Exhibit D is a copy of Meroni & Meroni, P.C. Invoice No. 0504 dated May 6, 2003 reflecting the payment; and Exhibit E is a copy of a journal entry summarizing the events reflected in Exhibits C and D and showing a copy of a photograph of the second revision of the prototype (Exhibit E further indicates final payment of Invoice No. 0504 on May 20, 2003).

On May 20, 2003, I paid the balance of Invoice No. 0504 and received a patent search report from Meroni & Meroni, P.C. dated May 16, 2003, a copy of which is attached hereto and marked as Exhibit F (13 pages). From an inspection of Page No. 3 of Exhibit F, it will be seen that the search report was based upon an exhibit, which exhibit appears as (an unnumbered) Page No. 13 of the report. The depictions set forth in the search report exhibit were secondly revised during the time the search report was being prepared as supported by Exhibit E and as further shown in Exhibit G. Exhibit G is a copy of a photograph of the second revision of the prototype, which revision was undertaken to house the components in a more streamlined (flashlight type) design and carrying case for presentation purposes.

I declare that all statements made herein of our knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that all such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Keith A. Sauerland


Date